State Of California The Resources Agency of California

Memorandum

Date October 18, 2001
Telephone: (916) 651-8853
File: Los Esteros

To: William Keese, Presiding Member
Michal C. Moore, Associate Member

From: California Energy Commission Robert Worl, Project Manager
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Sacramento, CA 95814-5512

Subject: **LOS ESTEROS CRITICAL ENERGY FACILITY PROJECT ISSUE IDENTIFICATION REPORT**

Attached is the staff's Issue Identification Report. This report serves as a preliminary scoping document as it identifies the issues the Energy Commission staff believe will require careful attention and consideration. Energy Commission staff will present the Issues Report at the Site Visit and Informational Hearing scheduled for November 5, 2001.

Part of this report deals with scheduling issues. The Energy Commission is reviewing the Los Esteros Project pursuant to the expedited four-month Application for Certification (AFC) process set forth by Public Resources Code section 25552. The Energy Commission staff is recommending the AFC remain in the 4-month process at this time. However, for continuing eligibility for the 4-month process we have identified elements and timelines that are critical to the staff's ability to complete analysis and prepare necessary documents within the required time frame. The applicant will need to work to meet the attached timelines and provide the needed information to the Energy Commission and other agencies by the stated dates.
Should these timelines not be met, there is a likelihood that the staff will come to the Committee and recommend moving the LECEF review to the 12-month process.

Attachments

cc: Proof of Service List
Bay Area Air Quality Management District

LOS ESTEROS CRITICAL ENERGY FACILITY
(01-AFC-12)

October 18, 2001

ISSUES IDENTIFICATION REPORT AND STAFF RECOMMENDATIONS REGARDING ELIBILITY FOR 4-MONTH REVIEW

CALIFORNIA ENERGY COMMISSION

Systems Assessment and Facility Siting Division

ISSUE IDENTIFICATION REPORT
LOS ESTEROS CRITICAL ENERGY FACILITY PROJECT
(01-AFC-12)

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PURPOSE OF REPORT

This report has been prepared by the California Energy Commission staff to inform the Committee and all interested parties of the potential issues that have been identified in the case thus far. Issues are identified as a result of discussions with federal, state, and local agencies, and our review of the Los Esteros Critical Energy Facility (LECEF) Application for Certification (AFC), Docket Number 01-AFC-12. This Issue Identification Report contains a project description, summary of potentially significant environmental issues, and a discussion of the proposed project schedule. The staff will address the status of potential issues and progress towards their resolution in periodic status reports to the Committee.

The LECEF AFC was accepted under the Energy Commission's 4-month review process on September 25, 2001.

This report also contains staff's recommendations on whether the project should remain in the 4-month review process. The Commission or the Committee are required to make this determination within 25 days of a determination of Data Adequacy.

PROJECT DESCRIPTION

Calpine c* Power proposes to construct a gas-fired power plant at 1515 Alviso-Milpitas Road, within the City of San Jose, Santa Clara County. The location is at the north east corner of the junction of Zanker Road and State Route 237. The 55 acre site for the project is owned by c* Power. The proposed facility will include four LM6000 combustion turbine generators (CTGs) operating in a simple cycle mode equipped with water injection to control oxides of nitrogen (NOx) emissions and associated support equipment. The installation of the CTG's will produce electricity in the simple cycle mode and be available to the California grid, and eventually as a reliable source of energy for the US DataPort facility to be built at the site. Initially, the project will produce 180 megawatts (MW) of electricity for which Calpine has a 3 year contract with the Department of Water Resources. Within 3 years of licensure the applicant plans to convert the facility to a combined cycle plant increasing power output to 260 MW.

This facility is not owned by a utility or utility affiliate. As a result of this project, the US DataPort facility, when constructed, will not require power to be consumed from the grid and will release a portion of the electricity generated for use by other California electric customers.

The project will consist of:

- Four GE gas turbines (LM6000) with generator and chiller, nominal capacity up to approximately 45 MW each.
- Fuel gas compression facilities to supply natural gas to the turbines from a PG&E gas lines adjacent to the proposed project.
- Approximately 550 feet of new natural gas supply line, 10 inches in diameter, will connect to PG&E lines 101 and 109, adjacent to State Route 237 on property controlled by the applicant. This will insure a redundant supply.

- The project will use recycled water from the Santa Clara Valley Water Pollution Control Plant (WPCP) via a 1000 foot line connecting to a main located within the City of San Jose's buffer land adjacent to the site.
- Cooling will be via two cooling towers supplied with recycled water from the WPCP.
- Water will be treated, demineralized. and filtered on-site prior to use for injection.
- Air pollutants in the gas turbine exhaust will be controlled using state-of-the-art combustion technology, selective catalytic reduction (SCR), and an oxidation catalyst.
- The proposed 115 kV transmission line interconnection will be southwest approximately 2000 feet to an existing 115kV PG&E line.

POTENTIAL MAJOR ISSUES

This portion of the report contains a discussion of the potential issues the Energy Commission staff has identified to date. This report may not include all the significant issues that may arise during the case, as discovery is not yet complete, and other parties have not had an opportunity to identify their concerns. The identification of the potential issues contained in this report was based on our judgement of whether any of the following circumstances will occur:

- Significant impacts may result from the project which may be difficult to mitigate;
- The project as proposed may not comply with applicable laws, ordinances, regulations or standards (LORS);
- Conflicts may arise between the parties about the appropriate findings or conditions of certification for the Commission decision that could result in a delay to the schedule.

The following table lists all the subject areas evaluated and notes those areas where the critical or significant issues have been identified and if data requests have been requested. Even though an area is identified as having no significant or potential issues, it does not mean that an issue will not arise related to the subject area. For example, disagreements regarding the appropriate conditions of certification may arise between staff and applicant that will require discussion at workshops or even subsequent hearings. However, we do not currently believe such an issue will have an impact on the case schedule or that resolution will be difficult.

Major Issue	Data Req.	Subject Area	Major Issue	Data Req.	Subject Area
Yes	Yes	Air Quality	No	Yes	Public Health
Yes	Yes	Biological Resources	No	Yes	Socioeconomic
No	Yes	Cultural Resources	No	Yes	Traffic & Transportation
No	Yes	Reliability/Efficiency	No	No	Transmission Safety
No	Yes	Facility Design	Yes	Yes	Transmission Sys. Eng.
No	Yes	Geological Resources	Yes	Yes	Visual
No	No	Hazardous Material	No	No	Waste Management
Yes	Yes	Land Use	No	Yes	Water & Soil
No	No	Environmental Justice	No	Yes	Worker safety
No	Yes	Noise			

At this time, the staff does not anticipate any unresolvable major issues that cannot be resolved during the 4-month AFC. The staff is ready to participate with the applicant, other agencies, etc., to address data requests or any issues that may arise. We plan to use this report and the data responses to focus our analysis on issues that will ultimately be addressed in the Staff Assessment (SA).

AIR QUALITY

FINE PARTICULATE MATTER (PM10) MITIGATION

If built as proposed, the project will add approximately 45 tons per year of Particulate Matter less then 10 microns in diameter (PM10) to the Bay Area Air Basin. Since the air basin is classified as non-attainment for the state PM10 Ambient Air Quality Standard (AAQS), this addition can contribute to existing violations of the state AAQS and thus must be mitigated.

It is thus the Energy Commission staff's responsibility under the California Environmental Quality Act (CEQA) to recommend that the applicant mitigate their project's PM10 impacts. Note that although the Bay Area Air Basin is classified as non-attainment for the state PM10 AAQS, the project will not be required by the Bay Area Air Quality Management District (BAAQMD) to provide offsets because the quantity emitted is below the district's Offset Threshold of 100 tons per year (as set by district rule).

EMISSIONS REDUCTION CREDITS (ERC)

Section 8.1.6.3 of the Los Esteros Application For Certification (AFC) indicates that only Oxides of Nitrogen (NOx) and Precursor Organic Compound (POC) offsets will be provided, in the form of ERCs. Section 2.1 of the applicant's Data Adequacy Responses indicate that the NOx ERCs for the project will be obtained through an as yet uncompleted retrofit of the Gilroy Foods project with a selective catalytic reduction (SCR) system.

The BAAQMD has, however, indicated that the currently proposed concurrent ERC banking schedule may not comply with district rules. If that proves to be the case, an alternate ERC package may be necessary.

BIOLOGICAL RESOURCES

As noted in the AFC, the proposed Los Esteros Critical Energy Facility (LECEF) has the potential to indirectly affect federally-listed species through nitrogen deposition on sensitive serpentine communities on Coyote Ridge. The applicant, c* Power, to this point has assumed no "take" of federally-listed species will occur as a result of their project emissions. The U.S. Fish and Wildlife Service (USFWS) has told the Energy Commission that it does not agree with this determination and the applicant may be required to initiate consultation in order to avoid un-permitted "take" of the federally-listed species on serpentine soils.

To address the potential for impacts from nitrogen deposition, the applicant has proposed mitigation, using the Metcalf Energy Center model, for any impacts found likely to occur.

A likely approach is for the applicant to submit a suitable Biological Assessment and request a Biological Opinion regarding the nitrogen deposition issue to USFWS prior to the submission of the request to convert the project from simple cycle to combined cycle.

ENVIRONMENTAL JUSTICE

Based on data from Census 2000, staff has determined that there is a minority population of greater than 50 percent within a six-mile radius of the proposed power plant. Therefore, there is a potential for an environmental justice issue with this project. Whether there is in fact an environmental justice issue will not be known until staff analyses in a number of technical areas have been completed, and determinations made of whether there are any unmitigated significant impacts falling disproportionately on minority populations. Each of ten technical areas will evaluate the project for potential impacts specific to environmental justice.

LAND USE

The site of the LECEF project is not currently zoned appropriately for power plant development. The City of San Jose is acting to complete a rezone of the current Planned Development Zone to insure that the zoning matches the project. The City is desirous of accomplishing this in an expeditious manner, and has proposed a plan and a schedule for accomplishing this. The plan relies upon the applicant's request that the ENERGY COMMISSION process be viewed as a tiered EIR with the original US DataPort EIR, the Governor's Executive Orders D-26-01 and D-28-01, the Staff Assessment, and the Bay Area Air Quality Management District Preliminary Determination of Compliance. The City will process the rezone in an expedited fashion, with City Council action occurring prior to evidentiary hearings on LECEF.

TRANSMISSION SYSTEM ENGINEERING

The AFC states that the preferred interconnection is through an approximately 400 foot double circuit underground 115 kV line within the fence line of both the project and the proposed PG&E Los Esteros substation. It is now known that the Los Esteros substation will not be completed before the power plant

Page 1-3 of AFC discusses two options that would be pursued if the Los Esteros substation is not available. The applicant has selected an alternative and is completing the required studies necessary for staff review. The alternative is subject to the same level of analysis as the preferred interconnection initially presented in the AFC.

For adequate evaluation of the transmission system staff will require an interconnection study for the alternative interconnection point. Although there is a preliminary Cal ISO approval of the selected alternative, staff will also need the Cal ISO review of the interconnection based upon the final interconnect study expected on October 25.

VISUAL RESOURCES

Based on a review of the Los Esteros Critical Energy Facility (LECEF) AFC and the Applicant's Responses to Data Adequacy Data Requests, as well as a field reconnaissance of the project site and area, the following issues of concern for visual analysis have been identified.

The proposed project would result in the introduction of industrial facilities to a predominantly rural agricultural parcel that does not contain similar structures though is located on the urban fringe of Silicon Valley. The site is open and highly visible from State Route (SR) 237 located just south of the project site. Views from SR 237 are drawn across the open site to the East Bay hills to the east of the site and the open bay environs to the north of the site. The Applicant has assumed the construction of the US DataPort project and evaluated the potential impacts of the proposed project in the context of US DataPort (including simulations). The Applicant has also assumed the presence of US DataPort in the evaluation of the project's consistency with the goals and policies of the Alviso Master Plan. However, staff considers the US DataPort project to be speculative at this point in time and not an appropriate context for consideration of the LECEF project. If the US DataPort project is delayed or downsized considerably, the proposed landscaping may not adequately screen the power plant from views within a reasonable time frame, and the project may then be inconsistent with Alviso LORS. Viewed on its own, the proposed project (structures and/or plumes) may result in significant visual impacts

This issue will be resolved by: (1) evaluating the applicant's responses to data requests (including landscaping simulations), (2) conducting a field analysis of the existing landscape characteristics and affected public views, (3) conducting a LORS consistency analysis, and (4) conducting a plume modeling analysis to determine plume dimensions and frequency of occurrence.

If the presence of project structures causes significant visual impacts, mitigation opportunities to lessen structural prominence and increase project blending with the existing landscape will be evaluated and recommended as appropriate. A plume significance determination will be based on an evaluation of the size and frequency of project plume(s) within the context of the existing landscape character, the visibility of other plumes, and public visual access within the plume viewshed. If project plume occurrence is determined to be significant, mitigation opportunities to eliminate, minimize, or lessen plume frequency and/or size will be evaluated. If mitigation opportunities are considered effective and appropriate, these measures will be incorporated into conditions of certification.

STAFF RECOMMENDATION ON ELIGIBILITY FOR A 4-MONTH PROCESS

Staff has begun its analyses of the project and is currently in the discovery phase, as well as conducting its assessment of other environmental and engineering aspects of the applicant's proposal.

Public Resources Code Section 25552(b)(2) requires that the Committee determine, within 25 days of the determination that the application is data adequate--in this case by October

19, 2001--whether the project is eligible for the four-month review process described in Section 25552. Staff, on the basis of the information currently before it, believes that the project is eligible because the applicant has proposed, and conditions of approval can be imposed upon the project to assure:

(1) that the project and related facilities will not have a significant adverse effect on the environment as a result of construction or operation;

(2) the protection of public health and safety;

(3) that the project will comply with all applicable federal, state, and local laws, ordinances, and standards;

(4) that four turbines comprising the project, will be in service before December 31, 2002;

(5) that the project will convert to combined cycle using best available control technology within 3 years of licensing; and

(6) the project will obtain offsets or, where offsets are unavailable, pay an air emissions mitigation fee to the air quality management district based upon the actual emissions from the project.

On the basis of the above requirements, staff recommends that the Committee find that the project continues to qualify for the four-month process. However, for continuing eligibility for the 4-month review process the following timelines are critical to insure that reasonable analysis and staff document preparation can be completed as scheduled:

1. The BAAQMD must have the PDOC completed by November 5;
2. A complete emissions offset package, acceptable to BAAQMD and the Energy Commission, submitted by October 31;
3. The PG&E Interconnection Study provided to the Energy Commission staff by October 29;
4. Cal ISO review of the study provided by November 5;
5. The applicant's selected mitigation for downstream impacts requires no transmission line upgrades;
6. There is no requirement for a formal phase 1 USFWS consultation;
7. The applicant responds to all data requests by October 31.

If these tasks and timelines are not met, there is a likelihood that the staff will come to the Committee and recommend moving the LECEF review to the 12-month process.

Following is staff's proposed schedule for the key events of the project. The ability of staff to be expeditious in meeting this schedule will depend on the applicant's timely response to: staff's data requests, the filing of Determination of Compliance from the air district, and other factors not yet discovered.

ENERGY COMMISSION STAFF'S PROPOSED SCHEDULE

Data Adequacy	August 6	Application filed
Data Adequacy	Sept 21	Staff recommendation on DA
Day 0	Sept. 25	Energy Commission determines Data Adequacy
Day 10	Oct. 5	Staff files Data Requests
Day 22	Oct 17	Staff Files Issue Identification Report
Day 25	Oct 19	Energy Commission Decision on eligibility for 4-month review
Day 36	Oct. 31	Applicant files Data Responses
Day 41	Nov. 5	Air District PDOC (estimated)
Day 41	Nov. 5	Information Hearing & Site Visit
Day 43	Nov. 7	Workshop on Issues, & Data Responses
Day 57	Nov. 21	Staff files Assessment
Day 65	Nov. 29	Agency Comments Due
Day 65	Nov. 29	Workshop on Staff Assessment (Tentative
Day 71	Dec. 5	BAAQMD Final DOC (This is an estimate)
Day 76	Dec. 10	Staff files addendum to Assessment
Day 78	Dec. 12	San Jose City Planning Commission makes recommendation on rezoning of LECEF site
Day 84	Dec. 18	City of San Jose Council action on LECEF rezone
Day 85	Dec. 19	Hearings Begin
Day 100	Jan. 3, 2002	PMPD
Day 108	Jan. 11, 2002	Hearing on PMPD
Day 114	Jan. 17, 2001	Ammended PMPD if necessary
Day 120	Jan. 23, 2002	Decision